

Part 4 Lender Eligibility

46 Eligibility Requirements for SEL (7 CFR 762.105(b))

A

Overview

The basic level of participation in the FSA Guarantee Farm Loan Program is SEL. SEL must meet the eligibility criteria in this section to submit an application for a guarantee. If the lender does not meet the eligibility criteria to the satisfaction of FSA, the application will be denied.

B

Capacity

A lender must have experience in making and servicing agricultural loans and have the capability to make and service the loan for which a guarantee is requested.

In reviewing the SEL request, the Authorized Agency Official shall consider FSA's prior experience with the lender in assessing whether or not they have the capability to make and service the loan. An important factor in reviewing the lender's capacity is their experience in agricultural lending. Experience in agricultural lending must be demonstrated for either the lender or the lender's personnel.

The lenders must not have losses or deficiencies in processing and servicing guaranteed loans above a level which would indicate an inability to properly process and service a guaranteed agricultural loan.

Previous problems with a lender, as evidenced in monitoring reports, excessive loss claims, or denial of loss claims, should be considered in this determination.

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46 Eligibility Requirements for SEL (7 CFR 762.105(b)) (Continued)

C**Examination and Supervision**

A lender must be subject to credit examination and supervision by an acceptable State or Federal regulatory agency.

Only regulated lenders that are subject to both examination and supervision may participate in the FSA Loan Guarantee Program. Examination will normally include a review of the lenders' asset quality, management practices, financial condition, and compliance with applicable laws and regulations. Supervision gives the regulator the authority to require that the lender make changes to ensure safety and soundness. Acceptable agencies include, but are not limited to, the following:

- FDIC
- Office of Comptroller of the Currency
- Office of Thrift Supervision
- Federal Reserve
- FCA
- National Credit Union Administration
- State banking commissions.

Lenders that are audited and subject to oversight by a State agency may or may not be examined and subject to supervision. Any questions concerning whether a lender meets this requirement should be addressed to DAFLP, Guaranteed Loan Making Branch.

Continued on the next page

46 Eligibility Requirements for SEL (7 CFR 762.105(b)) (Continued)

D**Local Lender**

The lender must maintain an office near enough to the collateral's location so it can properly and efficiently discharge its loan making and loan servicing responsibilities or use Agency approved agents, correspondents, branches, or other institutions or persons to provide expertise to assist in carrying out its responsibilities. The lender must be a local lender unless it does either of the following:

- **normally makes loans in the region or geographic location in which the loan applicant's operation being financed is located**
- **demonstrates specific expertise in making and servicing loans for the proposed operation.**

It is expected that the lender's business office will be located near the loans that it services. If the lender is lending out of its normal service area, FSA shall determine whether or not the loan can be appropriately serviced by the lender. Depending on the type of loan and the type of farming operation, it is important the lender have:

- local knowledge
 - the ability to conduct inspections of collateral
 - regular contact with the borrower.
-

E**Participation**

The lender, its officers, or agents must not be debarred or suspended from participation in Government contracts or programs and the lender must not be delinquent on a Government debt.

--Refer to 1-FLP, paragraph 43 for additional guidance about debarment and suspension.--

47 Approval Process for SEL

A**FSA Review**

The Authorized Agency Official shall review FSA-1980-25 in conjunction with the eligibility criteria in paragraph 46 to determine whether the lender is eligible to process the requested guarantee. This review will be done with the review of the proposed guaranteed loan.

B**Approval**

SEL approval is granted for the purpose of originating and servicing a guaranteed *--loan. SEL eligibility is evaluated with each guarantee application. If the lender continues to meet the requirements of paragraph 46, guarantee requests may continue to be processed. A new FSA-1980-38 is not required unless the most recent version of FSA-1980-38 has not been executed. See subparagraph 48 B.--*

48 Monitoring SEL

A**Review of
Lender
Performance**

SED shall determine how the file review requirement will be carried out. FSA shall review 40 percent of the lender's guaranteed loan files over the course of each year. Subparagraph 267 B lists the loans that will be given priority in the review and the items that should be inspected during the review process.

To the extent that deficiencies are discovered during the FSA monitoring review, the Authorized Agency Official shall inform the lender in writing and, if necessary, propose a timeframe for a reinspection of the deficiencies. Copies of any reviews and monitoring correspondence must be sent to DD and SED for major deficiencies.

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48 Monitoring SEL (Continued)

B**Operational File**

The Authorized Agency Official shall develop and maintain an operational file on each lender. This file will contain the following:

- information on the loans originated and serviced by the lender
- copies of the monitoring reviews conducted by FSA
- resolution of findings
- any correspondence between the lender and FSA
- copy of a current FSA-1980-38.

*--All SEL's must have a current FSA-1980-38 on file before issuing the guarantee.

Note: If a revised version of FSA-1980-38 has been issued, the lender must execute a new agreement before any new loan guarantees can be issued.--*

C**Imposing
Sanctions**

In situations where the Authorized Agency Official is unable to resolve deficiencies with the lender, enforcement actions may be taken. Before the implementation of any enforcement action by FSA, the lender must be:

- notified in writing of the deficiencies
- given a specific timeframe in which to resolve the deficiencies
- warned of the sanctions that may be taken by FSA if the deficiencies are not resolved.

Examples of unresolved deficiencies may include the following:

- failure on the part of the lender to obtain an adequate appraisal
- failure to perfect a lien
- failure to adequately monitor the borrower or the collateral.

While any of these deficiencies may result in the denial or reduction of a loss claim to the lender, it is important to FSA that these issues be resolved as early as possible.

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48 Monitoring SEL (Continued)

C**Imposing
Sanctions
(Continued)**

The sanction imposed on the lender should be the most effective in resolving the deficiency. Examples of sanctions include the following:

- adjustment of loss claims
- increased monitoring visits
- increased reporting on corrective actions taken
- increased documentation for guarantee processing
- determination that the lender does not meet SEL standards and, therefore, is not eligible for future guaranteed loans.

In extreme cases, recommendations should be made to the National Office for suspension or debarment.

49 Eligibility Requirements for CLP (7 CFR 762.106)

A**Overview**

CLP is a program that permits lenders with a proven track record in making and servicing guaranteed loans to operate under a streamlined origination and servicing process. While the CLP lender is still bound by FSA regulations and must use and maintain on file FSA-approved forms, information submitted to FSA for approval is minimized. SED is responsible for approving all CLP's in the State, based on information from the local offices and prior performance of the lender.

B**Threshold
Eligibility**

The lender must **qualify as a Standard Eligible Lender under § 762.105.**

To be eligible to apply for certified lender status, the lender must meet the eligibility requirements of SEL as detailed in paragraph 46.

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49 Eligibility Requirements for CLP (7 CFR 762.106) (Continued)

C**Loan Production
and Performance**

The lender must **have a lender loss rate not in excess of the maximum CLP Loss Rate established by the Agency and published periodically in a Federal Register Notice.**

This rate is set at 7.00 percent.

To be eligible for CLP, the lender must have a loss rate that does not exceed 7 percent.

The Agency may waive the loss rate criteria for those lenders whose loss rate was substantially affected by a disaster as defined in 7 CFR 1945, subpart A.

SED is granted the authority to waive this criteria on a bank-by-bank basis. The performance of other lenders under similar conditions should be considered before granting such a waiver.

[7 CFR 762.102] Loss rate equals the net amount of guaranteed OL, FO, and SW loss claims paid on loans made in the past 7 years divided by the total loan amount of the OL, FO, and SW loans made in the past 7 years.

If a lender applying for CLP status is or has recently been involved in a merger or acquisition, all loans and losses attributed to both lenders will be considered in the eligibility calculations.

The lender must continue to meet this requirement to hold CLP status. As part of the annual CLP review, the Authorized Agency Official shall ensure that the lender's losses remain below the maximum loss rate.

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49 Eligibility Requirements for CLP (7 CFR 762.106) (Continued)

D**Experience**

The lender must **have proven an ability to process and service Agency guaranteed loans by showing that the lender:**

- **submitted substantially complete and correct guaranteed loan applications**
- **serviced all guaranteed loans according to Agency regulations.**

In evaluating whether or not a lender meets these requirements, the State Office shall review historical monitoring reports on the lender. Recurring and/or unresolved issues about origination or servicing should be considered in the approval of CLP status for the lender. If CLP status is denied because of failure to meet this requirement, SED should recommend changes that the lender would need to implement to qualify for CLP status at a later date.

E**Minimum
Guaranteed
Loans**

The lender must **have made the minimum number of guaranteed OL, FO, or SW loans established by the Agency and published periodically in a Federal Register Notice.**

This is set at a minimum of 10 Agency guaranteed loans ever and five such loans in the past 2 years.

The lender must continue to meet this requirement to hold CLP status. As part of the CLP review, the Authorized Agency Official shall ensure that the lender has closed the required number of loans to retain CLP status.

Notes: The volume requirements will be published in a separate FR document.

--Multiple loans for 1 borrower will be counted separately. However, advances on LOC's do not count as separate loans.--

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49 Eligibility Requirements for CLP (7 CFR 762.106) (Continued)

F**Acceptable Level
of Soundness**

The lender must **not be under any regulatory enforcement action such as a cease and desist order, written agreement, or an appointment of conservator or receiver, based on financial condition.**

In addition, the National Office monitors the bank rating services and other sources to determine the financial soundness of each lender participating in the Guaranteed Farm Loan Program. When a lender requests CLP status, SED shall contact LMD, Guaranteed Loan Branch to determine the lender's financial strength rating.

G**Qualified Person**

The lender must **designate a qualified person or persons to process and service Agency guaranteed loans for each of the lender offices which will process CLP loans. To be qualified, the person must meet the following conditions:**

- **have attended Agency sponsored training in the past 12 months or will attend training in the next 12 months**
- **agree to attend Agency sponsored training each year.**

The CLP application should include the resume or resumes of the person or persons qualified to process and service FSA-guaranteed loans. For a CLP lender, it is expected that this person will have experience in agricultural lending and experience in originating and servicing FSA-guaranteed loans.

H**Acceptable
Forms**

The lender must **use forms acceptable to the Agency for processing, analyzing, securing, and servicing Agency guaranteed loans and lines of credit.**

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49 Eligibility Requirements for CLP (7 CFR 762.106) (Continued)

I
Approved Documents

The lender must **submit to the Agency copies of financial statements, cash flow plans, budgets, promissory notes, analysis sheets, collateral control sheets, security agreements, and other forms to be used for farm loan processing and servicing.**

As part of the application, copies of these documents must be submitted to FSA for review of conformance with program requirements. The CLP lender should also inform FSA of any proposed change to these documents before implementing the change.

If any of these documents fail to comply with FSA requirements, SED shall recommend modifications to bring them into compliance.

50 Approval of Certified Lenders (7 CFR 762.106)

A
Request for CLP Status

Lenders who desire CLP status must prepare a written request addressing:

- **the States in which they desire to receive CLP status and their branch offices which they desire to be considered by the Agency for approval**
- **each item of the eligibility criteria for CLP approval in paragraph 49, as appropriate.**

See subparagraph B for what a request should contain.

The lender may include any additional supporting evidence or other information the lender believes would be helpful to the Agency in making its determination.

The lender must send its request to the Agency State Office for the State in which the lender's headquarters is located.

The lender must provide any additional information requested by the Agency to process a CLP request, if the lender continues with the approval process.

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50 Approval of Certified Lenders (7 CFR 762.106) (Continued)

B**Eligibility
Criteria**

Before a lender is approved for CLP status, the lender must demonstrate compliance with the following eligibility criteria:

- provide evidence of being an eligible lender
 - provide information to show that loan losses (net of recovery) do not exceed 7 percent
 - have the capacity to process and service FSA-guaranteed loans
 - certify that the person designated to process and service FSA-guaranteed loans has attended FSA loan processing and servicing training within the previous 12 months or will attend training within the next 12 months
 - agree to send for annual training the designated person from each of the lender's offices responsible for processing guaranteed loans
 - agree to use forms acceptable to FSA for processing, analyzing, securing, and servicing FSA-guaranteed loans/LOC's
 - if not previously submitted, copies of financial statements, cash flow plans, loan agreements, analysis sheets, security agreements, and promissory notes should be submitted with the request for CLP status
 - have closed a minimum of 10 FSA-guaranteed FO, SW, and OL loans/LOC's and 5 loans within the past 2 years.
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C**FSA Approval**

The CLP-eligible lender will have a track record in FSA programs. SED may request that Authorized Agency Officials that the lender has worked with provide a recommendation for CLP status and any issues or concerns that should be considered by SED before granting CLP status. SED shall make a decision on CLP status within 30 calendar days of receipt of the lender's complete application.

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50 Approval of Certified Lenders (7 CFR 762.106) (Continued)

C**FSA Approval
(Continued)**

CLP status is granted on a statewide basis by SED. A separate FSA-1980-38 is required for each State. A lender may request CLP status for all branches within a State, or only the specific branches that are using the guaranteed program. **The Agency will determine which branches of the lender have the necessary experience and ability to participate in the CLP program based on the information submitted in the lender application and on Agency experience.** The branch offices for which CLP status is granted are listed on FSA-1980-38.

Lenders who meet the criteria will be granted CLP status for a period not to exceed 5 years. Once FSA-1980-38 is executed by the CLP lender and SED, the original will be kept in the State Office and copies will be sent to the lender and County Offices where the lender is expected to submit applications. In addition, the FSA-approved lender forms and the names of the lender's designated representatives will be sent to the affected County Offices.

D**Renewal**

CLP status will expire within a period not to exceed 5 years from the date the lender's agreement is executed, unless a new lender's agreement is executed.

Renewal of CLP status is not automatic. A lender must submit a written request for renewal of a lender's agreement with CLP status which includes information:

- **updating the material submitted in the initial application**
- **addressing any new criteria established by the Agency since the initial application.**

A request for renewal of CLP status must be submitted to FSA at least 60 calendar days before the expiration of the current FSA-1980-38.

CLP status will be renewed if the applicable eligibility criteria under this section are met, and no cause exists for denying renewal under subparagraph 51 C.

51 Monitoring CLP (7 CFR 762.106)

**A
Monitoring
Reviews**

CLP lenders will provide information and access to records upon Agency request to permit the Agency to audit the lender for compliance with these regulations.

The Authorized Agency Official shall conduct a monitoring review on each CLP lender. This review shall be conducted according to Part 11. The Authorized Agency Official shall review at least 20 percent of CLP's files over the course of a year, according to the priorities in subparagraph 267 B.

**B
Operational File**

Each Authorized Agency Official shall maintain an operational file for each CLP lender as in the SEL Program. For CLP, SED shall also maintain a file for their SED Internal Annual Review.

At least annually, SED shall collect and review information about the performance of each CLP lender, including monitoring reviews from all County Offices that monitor the lender. These monitoring reviews shall be used to determine whether CLP status should continue.

**C
Revoking CLP
Status**

In addition to the sanctions that may be imposed in subparagraph 48 C, **the Agency may revoke the lender's CLP status at any time during the 5 year term for cause.**

SED is granted this authority.

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51 Monitoring CLP (7 CFR 762.106) (Continued)

C**Revoking CLP
Status
(Continued)**

Any of the following instances constitute cause:

- **violation of the terms of the lender's agreement**
 - **failure to maintain CLP eligibility criteria**
 - **knowingly submitting false or misleading information to the Agency**
 - **basing a request on information known to be false**
 - **deficiencies that indicate an inability to process or service Agency guaranteed farm loans**
 - **failure to correct cited deficiencies in loan documents upon notification by the Agency**
 - **failure to submit status reports in a timely manner**
 - **failure to use forms accepted by the Agency**
 - **failure to comply with the reimbursement requirements of subparagraph 376 A.**
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D**Reinstatement of
CLP Status**

A lender which has lost CLP status must be reconsidered for eligibility to continue as a Standard Eligible Lender in submitting loan guarantee requests. They may reapply for CLP status when the problem causing them to lose their status has been resolved.

If the reason for revoking CLP status was because of the deliberate submission of false information, the National Office must approve the request for reinstatement.

52 Eligibility Requirements for PLP (7 CFR 762.106)

A**Overview**

PLP is the top status that a lender can hold in the FSA Guaranteed Farm Loan Program. PLP was developed to recognize experienced lenders, who have demonstrated expertise in and understanding of agricultural lending and the FSA Guaranteed Farm Loan Program, by:

- streamlining submission requirements
- decreasing turnaround time on FSA actions
- allowing lenders to originate and service guaranteed loans as they would other loans in their portfolio.

To apply for PLP, lenders must outline the manner in which they intend to process and service FSA loan guarantees, based on their own underwriting and servicing policies. This CMS becomes the basis for approval decisions on guarantee applications. To request a guarantee, lenders need only to submit a 1-page application form and a loan narrative discussing the “5 C’s” of credit. The streamlined requirements of PLP result in a program that is nearly invisible to the lender.

PLP is beneficial to both lenders and FSA. The streamlined loan making and servicing processes allow lenders to reduce administrative costs and provide a quick turnaround time and a higher level of service to their customers. For FSA, the streamlined process allows DAFLP to devote more time to other critical areas of the loan programs.

PLP status is granted by DAFLP in the FSA National Office.--*

B**Meeting CLP Eligibility Criteria**

The lender **must meet the CLP eligibility criteria.**

The PLP lender must be a lender who has a track record with FSA-guaranteed loans. While the lender does not have to hold or have held CLP status, they must qualify for CLP status.

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52 Eligibility Requirements for PLP (7 CFR 762.106) (Continued)

**C
CMS**

The lender must **have a credit management system, satisfactory to the Agency, based on the following:**

- **the lender's written credit policies and underwriting standards**
- **loan documentation requirements**
- **exceptions to policies**
- **analysis of new loan requests**
- **credit file management**
- **loan funds and collateral management system**
- **portfolio management**
- **loan reviews**
- **internal credit review process**
- **loan monitoring system**
- **the board of director's responsibilities.**

***--Note:** An example CMS can be found on FSA's website at www.fsa.usda.gov/dafl/example.htm. Lenders may draw on language in the example, but each section must be amended based on the institution's commercial lending policy, organizational structure, and loan management practices.--*

Unlike SEL's and CLP lenders who originate and service guaranteed loans under FSA standards and guidance, PLP lenders will use their own CMS for originating and servicing FLP-guaranteed loans. The items that will be considered when reviewing CMS are in subparagraph D.

DAFLP shall determine what changes must be made to CMS to ensure that statutory and regulatory program requirements are met.

Once CMS is approved by FSA, it becomes the operational plan and a part of FSA-1980-38 between the lender and FSA for originating and servicing guaranteed loans. FSA shall monitor the lender by determining whether or not they are in compliance with the terms and conditions agreed to in CMS.

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52 Eligibility Requirements for PLP (7 CFR 762.106) (Continued)**D****PLP CMS**

The following are the guidelines for PLP CMS.

Guidelines

The lender should address each of the following issues, either with copies of documents such as board policies, procedures, or guidance memorandum, or, if no documented guidance exists, with an explanation of how the lender handles the issue. The lender should include copies of any forms and documents routinely used in loan application, underwriting, closing, monitoring, and servicing.

I. General Operations.

- A. Normal trade area, conditions under which the lender would lend outside of its trade area. Commodities or enterprises the lender typically lends for.
- B. The lending authority for loan officers that will be processing guaranteed loans; lending authority of a loan or executive committee, if any; and responsibilities of the board of directors in reviewing, ratifying, or approving loans.
- C. Process for handling policy exceptions.
- D. Guidelines for setting interest rates (pricing) and repayment terms. Fee structure and when fees can be waived.
- E. Internal credit review system. Who does it? How are the results reported? How often is it done? What is the scope? How are deficiencies followed up?
- F. Use of Agents, Consultants and Packagers. When are outside parties used?
- G. Organizational Structure.
- H. Qualifications of loan officers, either in general, or specifically for loan officers designated to work on FSA guaranteed loans.
- I. Method of monitoring compliance with FSA reporting requirements.

II. Loan Analysis / Underwriting.

A. Management Ability/Credit History Analysis.

- What credit references does the lender require?
- Does the lender have different standards for new customers or beginning farmers?
- What factors in an applicant's credit history would determine whether or not credit is granted?

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52 Eligibility Requirements for PLP (7 CFR 762.106) (Continued)**D****PLP CMS****Guidelines****(Continued)**

- How will the lender determine issues such as previous participation in government lending programs and suspension or debarment from those programs?

- How will the lender investigate environmental issues that may arise in the application?

B. Capacity Analysis.

- What data is gathered and what ratios are calculated to determine repayment capacity?
- What are the lender's minimum capacity requirements for guaranteed and nonguaranteed loan approval?
- When and how are income statements evaluated?

C. Capital Analysis.

- What data is gathered and what ratios are calculated to analyze the borrower's capital position?
- What are the lender's minimum capital requirements for guaranteed and nonguaranteed loan approval?
- How current must the Financial Statement be? How many historical statements are required at loan origination? What supporting schedules are required?
- What is the consolidation and/or combination process for entities and when is it required?
- What debts are verified and how is the verification documented?

D. Collateral Analysis.

- How does the lender determine the loan is properly secured?
- What are the guidelines for obtaining and reviewing appraisals? How current must an appraisal be?
- How is ownership of assets verified?
- How are possible prior liens verified/determined?
- What are the qualifications of the chattel and real estate appraisers used by the lender?

E. Conditions.

- When does the lender place special conditions (such as reporting requirements) on the loan?
- What controls are used to assure loan proceeds are utilized as planned? How are loan proceeds disbursed? Are there limitations on the amount advanced in relation to the value of the collateral?

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52 Eligibility Requirements for PLP (7 CFR 762.106) (Continued)**D
PLP CMS
Guidelines
(Continued)**

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III. Loan Servicing and Administration.**A. General Servicing.**

- Describe your portfolio oversight. Discuss how risk is monitored on an ongoing basis and how often and what type of financial information is obtained based on borrower or loan type.
- Describe your procedure for advancing for loan or line of credit purposes, monitoring the use of loan funds, and verification of existence or acquisition of collateral.
- Describe your security monitoring, maintenance, inspection, and reassessment procedures. Describe your insurance requirements. Describe your policy regarding releasing collateral for trade, replacement, and sale.

B. Delinquencies.

- Describe any increased servicing procedures for distressed or “watch list” loans.
- Describe your procedures for reminder notices, default notification, personal contact, and preparation of servicing plans. Describe actions taken at various past due timeframes.
- Describe your policies on extensions, abeyance, deferral, and rescheduling and how the decision is documented.

C. Liquidation.

- Describe your procedures on acceleration, referral to legal counsel, foreclosure, replevin, and reporting to bank management.
- Describe your policies and procedures regarding protective advances, deeds in lieu of foreclosure, judgments, and release from liability.

D. Other.

- Describe your policies regarding release of security without consideration and release of co-signers, co-borrowers, or guarantors from liability.
- Describe any exceptions to loan policies or procedures and other information that is relevant to FSA-guaranteed loans.

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52 Eligibility Requirements for PLP (7 CFR 762.106) (Continued)

E**FSA Experience**

The lender must **have made the minimum number of guaranteed OL, FO, or SW loans established by the Agency and published periodically in a Federal Register Notice.**

***--This is set at a minimum of 20 Agency guaranteed farm loans in the past five years.**

Note: The volume requirement is published in a separate FR document.--*

F**Loss Rate**

The lender must have a lender loss rate not in excess of the rate of the maximum PLP loss rate established by the Agency and published periodically in a Federal Register Notice.

This rate is set at 3 percent.

[7 CFR 762.102] Loss rate equals the net amount of guaranteed OL, FO, and SW loss claims paid on loans made in the past 7 years divided by the total loan amount of the OL, FO, and SW loans made in the past 7 years.

If a lender applying for PLP status is or has recently been involved in a merger or acquisition, all loans and losses attributed to both lenders will be considered in the eligibility calculations.

The Agency may waive the loss rate criteria for those lenders whose loss rate was substantially affected by a disaster as defined in 7 CFR 1945, subpart A.

This waiver may be granted only by DAFLP.

G**Sound Loan Proposals**

The lender must show a consistent practice of submitting applications for guaranteed loans containing accurate information supporting a sound loan proposal.

PLP lenders are expected to be experienced agricultural lenders who can demonstrate a history of consistently developing complete and accurate applications with minimal FSA involvement.

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52 Eligibility Requirements for PLP (7 CFR 762.106) (Continued)

H**Recurring
Deficiencies**

The lender must show a consistent practice of processing Agency guaranteed loans without recurring major or minor deficiencies.

In reviewing this requirement, DAFLP shall check previous monitoring reviews for major and minor recurring deficiencies. **[7 CFR 762.102] A major deficiency is one that directly affects the soundness of the loan.** Examples of major deficiencies may include the following:

- failure to obtain a complete appraisal report
- failure to perfect a lien
- failure to verify debts
- failure to obtain a credit report
- using unsound lending practices, such as unsupportable projections, inadequate collateral, or unsound assumptions.

[7 CFR 762.102] A minor deficiency violates Agency procedure, but does not affect the soundness of the loan. Minor deficiencies may include the following:

- nonsubstantive math errors
- missing forms
- delays in responding to FSA inquiries.

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52 Eligibility Requirements for PLP (7 CFR 762.106) (Continued)

I

Ability to Service Guaranteed Loans

The lender must demonstrate a consistent, above average ability to service guaranteed loans based on the following:

- **borrower supervision and assistance**
- **timely and effective servicing**
- **communication with the Agency.**

This criterion should be reviewed in the light of the lender's relationship to FSA and its borrowers. Three specific criteria are addressed.

- **Borrower Supervision and Assistance.** For PLP lenders, FSA expects that lenders will routinely work with borrowers to set goals and resolve deficiencies. For troubled borrowers, FSA would look:
 - for lender actions to communicate with the borrower regarding their complete credit and debt situation
 - to resolve financial difficulties with a view of the big picture.
- **Timely and Effective Servicing.** In assessing the PLP request, FSA shall look at how the lender has serviced its existing portfolio. Have problem loans been monitored closely and action taken promptly? Have loans been adequately protected in bankruptcy, litigation, or liquidation? Has the lender used good judgment in servicing actions, maintained control, and minimized losses to FSA?
- **Communication With FSA.** Because of the nature of PLP, good communication with FSA is critical. DAFLP shall look to SED and the Authorized Agency Official for information regarding FSA's past and current relationship with the lender. Is FSA informed of issues and potential losses at the early warning stage? Does the lender submit required reports on time? Are issues discovered in monitoring reviews quickly resolved and communicated to FSA?

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52 Eligibility Requirements for PLP (7 CFR 762.106) (Continued)

J**Qualified Person**

The lender must **designate a person or persons, approved by the Agency, to process and service PLP loans.**

The lender should detail the minimum educational and experience requirements of loan officials or include the resume or resumes of the person or persons who are qualified to process and service FSA-guaranteed loans. For a PLP lender, it is expected that this person will have significant experience in agricultural lending and significant experience in originating and servicing FSA-guaranteed loans. To satisfy this requirement, the lender's application should address the experience the designated person has regarding the items in subparagraphs G and I.

--Once PLP status is approved, the lender is responsible for maintaining staff who is adequately trained in originating and servicing guaranteed loans. The lender must notify FSA if the designated person representing the lender changes, but subsequent approval by FSA is not required.--

53 Approval Requirements (7 CFR 762.106)

A**Request for Approval**

Both the lender and SED should develop the lender's request for approval. The lender should contact the State Office and inform SED of its intent to submit a PLP request. SED may provide additional guidance to the lender in developing its application. The request should be in the following 3 parts.

- Part I. The Lender's Application Letter demonstrating the lender meets the PLP criteria, excluding CMS.
- Part II. SED Comments and Recommendation. This part of the package will be developed from information gathered from the following sources:
- County and District Offices where the lender proposes to do business and has done business in the past
- in a multi-State request, the other FSA State Offices located in the lender's region

***--Note:** PLP status will be approved in the lender's normal trade area. If a lender wishes to make a loan outside of this area, the lender should contact that State Office for guidance on where to submit the request for guarantee.--*

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53 Approval Requirements (7 CFR 762.106) (Continued)

A**Request for
Approval
(Continued)**

- State and District Office operational files, containing information on the lender's past performance
- the lender's PLP application package

Note: SED shall review the lender's proposed CMS to make a recommendation to DAFLP. However, SED will **not** set minimal underwriting, servicing, or liquidation standards, processes, or procedures for the lender. This is the lender's proposal and it need not, and probably will not, comply with requirements set for SEL and CLP lenders. Any areas considered inadequate by SED will be identified in the recommendation to DAFLP, but will not be communicated to the lender.

- reports indicating volume, loss, delinquencies, timeliness of lender reporting, etc.
- National Office for information on the lender's financial strength.
- Part III. A copy of the lender's proposed CMS. See subparagraph 52 D for the requirements of this part.

Parts I and III of the application should be submitted to SED, who shall:

- check the application for completeness
 - review its contents
 - make an approval recommendation
 - forward the application to DAFLP for approval.
-

B**DAFLP Review**

DAFLP shall review the PLP request, contacting the lender if necessary, and make the approval decision.

Continued on the next page

53 Approval Requirements (7 CFR 762.106) (Continued)

C**Conditions of Approval**

Lenders who meet the criteria will be granted PLP status for a period not to exceed 5 years.

PLP status will be conditioned on the lender carrying out its credit management system as proposed in its PLP status and any additional loan making or servicing requirements agreed to and documented in the PLP lender's agreement.

If the PLP lender's agreement does not specify any agreed upon process for a particular action, the PLP lender will act according to regulations governing CLP lenders.

Example: If the PLP lender does not state in its credit management system what historical financial information will be collected when developing applicant cash flow budgets, the CLP requirements in paragraph 153 will be followed.

D**Renewal**

PLP status will expire within a period not to exceed 5 years from the date the lender's agreement is executed, unless a new lender's agreement is executed.

Renewal of PLP status is not automatic. A lender must submit a written request for renewal of a lender's agreement with PLP status which includes information:

- **updating the material submitted in the initial application**
- **addressing any new criteria established by the Agency since the initial application.**

PLP status will be renewed if the applicable eligibility criteria under this section are met, and no due cause exists for denying renewal under subparagraph 54 C.

E**Transfer of PLP Information to the Local Office**

***--SED shall provide a copy of PLP FSA-1980-38, including all attachments, to--**
*** the Authorized Agency Official in each local office that will process loans for the specific PLP lender.**

54 Monitoring the PLP Lender (7 CFR 762.106)

**A
Monitoring
Reviews**

PLP lenders will provide information and access to records upon Agency request to permit the Agency to audit the lender for compliance with these regulations.

SED is responsible for ensuring that monitoring reviews are conducted on each PLP lender. This review shall be conducted according to Part 11 and shall examine the lender's approved CMS. The designated reviewer shall review * * * the lender's files according to the priorities in subparagraph 267 B.

**B
Maintaining an
Operational File**

Each Authorized Agency Official must develop and maintain an operational file as in the SEL Program. SED and DD shall also maintain a file developed as part of their Internal Annual Review.

At least annually, SED shall collect and review information on each PLP lender. SED shall examine monitoring reviews from the local office to determine the following:

- whether PLP status should continue
- whether the status should be terminated
- whether the renewal is denied for failure to comply with program requirements.

--The SED operational file shall also contain a copy of the original--
FSA-1980-38 and the lender's corresponding CMS.

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54 Monitoring the PLP Lender (7 CFR 762.106) (Continued)

C**Revoking PLP Status**

In addition to the sanctions that may be imposed in subparagraph 48 C, a PLP lender may, at the discretion of DAFLP, have their status revoked **at any time during the 5 year term for cause. Any of the following instances constitute cause for revoking or not renewing PLP status:**

- **violation of the terms of the lender's agreement**
 - **failure to maintain PLP eligibility criteria**
 - **knowingly submitting false or misleading information to the Agency**
 - **basing a request on information known to be false**
 - **deficiencies that indicate an inability to process or service Agency guaranteed farm loans**
 - **failure to correct cited deficiencies in loan documents upon notification by the Agency**
 - **failure to submit status reports in a timely manner**
 - **failure to use forms, or follow credit management systems accepted by the Agency**
 - **failure to comply with the reimbursement requirements of subparagraph 376 A.**
-

D**Reinstatement of PLP Status**

A lender which has lost PLP status must be reconsidered for eligibility to continue as a Standard Eligible Lender or as a CLP lender in submitting loan guarantee requests. They may reapply for PLP status when the problem causing them to lose their status has been resolved.

55 (Withdrawn--Amend. 4)

56-68 (Reserved)